

Office of the State Public Defender Administrative Policies

Subject:	Determining Conflicts of Interest	Policy No.:	119
Title:	47	Pages:	2 3
Section:	1-105(5) Conflict Coordinator and Public Defender Commission	Last Review Date:	0928/09 05/31/11
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1.0 POLICY

- 1.1 Conflicts of interest are of paramount concern to the Public Defender Commission (PDC) and the Office of the State Public Defender (OPD). Every office within the system must be scrupulous in avoiding conflicts of interest.
- 1.2 This policy specifically recognizes that waivers of conflicts of interest are, occasionally, in the best interest of the client and should be used where appropriate, but only if in the best interest of the client.

2.0 PROCEDURES

- 2.1 When a client is qualified for OPD services under Policy 105, Determination of Indigence:
 - 2.1.1 The case information will be entered into the case management system as soon as possible.
 - 2.1.2 If the case management system flags a potential conflict of interest, the Regional Deputy Public Defender will consult with the Conflict Coordinator at the earliest possible opportunity and will do sufficient inquiry into the nature of the conflict.
 - 2.1.3 The ~~Regional Public Defender~~ Conflict Coordinator will make a written determination as to whether an actual conflict of interest exists.
 - 2.1.4 If a conflict of interest does exist, the ~~Regional Deputy Public Defender~~ Conflict Coordinator shall assign the case conflict to a private contract attorney or to a public defender employed outside ~~his or her~~ the region as per Policy 116, Conflict Cases.
 - 2.1.5 The determination by the Conflict Coordinator shall be distributed to the Regional Public Defender, the public defender assigned to the case if applicable, and the defendant by means appropriate under the circumstances.
- 2.2 When an attorney in a public defender office is assigned a case and, during the course of representation, a conflict of interest ~~becomes evident~~ issue arises, the public defender shall ~~bring the conflict of interest to the attention of the Regional Public Defender~~ complete the conflict of interest form (Attachment A) and submit it to the Regional Deputy Public Defender.
 - 2.2.1 The Regional Deputy Public Defender shall ~~make a determination of a~~

- ~~conflict of interest as~~ follow the procedure described in ~~2.1~~ 2.1.2.
- 2.2.2** If the public defender assigned to the case or the Regional Public Defender disagrees with the finding of the Regional Deputy Public Defender Conflict Coordinator, the decision may be appealed to the Training Officer Public Defender Commission's Contracts Process and Approvals Committee for assistance.
- 2.2.3** Any appeal taken to the Training Officer Public Defender Commission's Contracts Process and Approvals Committee shall be in writing and set forth all relevant facts, while preserving confidentiality, related to the conflict of interest question.
- 2.2.4** The Training Officer Public Defender Commission's Contracts Process and Approvals Committee shall review the materials and determine whether a conflict of interest, in fact, exists. ~~If a conflict does exist, he will refer the matter back to the Regional Deputy Public Defender for assignment to a private attorney.~~ The Public Defender Commission's Contracts Process and Approvals Committee shall make a written finding of the Conflict Coordinator's decision. The Conflict Coordinator, the Regional Public Defender, the public defender assigned to the case if applicable, and the defendant by means appropriate under the circumstances will be notified of Committee's finding. If a conflict does exist, the Conflict Coordinator shall assign the conflict as per 2.1.4.
- 2.2.5** The written finding of the Training Officer Public Defender Commission's Contracts Process and Approvals Committee shall be final.

3.0 CLOSING

Questions about this policy should be directed to the State Office at the following address:

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